



California Regional Water Quality Control Board

San Diego Region

Terry Tamminen
Secretary for Environmental
Protection

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Arnold Schwarzenegger
Governor

April 23, 2004

Item 14
Doc. No. 5

Certified Mail – Return Receipt Requested
7003 3110 0006 1702 0494

In reply refer to:
IC:14-1033.02:kneds

Ms. Deborah Van Huis
Project Manager
KB Home Coastal Inc.
12355 El Camino Real, Suite 100
San Diego, CA 92130

Dear Ms. Van Huis:

SUBJECT: STATUS OF COMPLIANCE OF ENROLLMENT WITH ORDER NO. 2001-96, NPDES NO. CAG919002

**COMPLAINT NO. R9-2004-0116 FOR ADMINISTRATIVE CIVIL
LIABILITY FOR MANDATORY MINIMUM PENALTY UNDER WATER
CODE § 13385, VIOLATION OF ORDER NO. 2001-96, NPDES
NO. CAG919002**

**FACILITY: KB HOME COASTAL INC., MAR LADO PUMP STATION
CONSTRUCTION DEWATERING, 401 FOUSSAT DRIVE, OCEANSIDE,
CALIFORNIA**

Request for Termination

The California Regional Water Quality Control Board, San Diego Region (Regional Board) has reviewed your March 11, 2004 request for termination of enrollment to discharge pursuant to Order No. 2001-96, *General Waste Discharge Requirements for Groundwater Extraction and Similar Waste Discharges From Construction, Remediation, and Permanent Groundwater Extraction Projects to Surface Waters Within the San Diego Region Except for San Diego Bay*, NPDES Permit No. CAG919002. On April 1, 2003 the Regional Board Executive Officer enrolled your facility under the general groundwater extraction permit for the discharge of groundwater to the San Luis Rey River from the Mar Lado Pump Station Construction Dewatering, 401 Foussat Drive, Oceanside, California.

It is our understanding that discharges of extracted groundwater from the above project site have been terminated. The Regional Board is unable to terminate your enrollment under Order No. 2001-96 at this time due to unresolved violations of effluent limitations for Turbidity, Total Nitrogen, and Total Phosphorus reported in the *January 2004 Monthly Monitoring Report*. Subsequent to resolution of the violations the Regional Board will continue to process your request to terminate enrollment.

California Environmental Protection Agency

Recycled Paper

14-1033.02

Complaint No. R9-2004-0116

Enclosed find Complaint No. R9-2004-0116, Administrative Civil Liability with Mandatory Minimum Penalty, for the amount of \$12,000 for violations of the effluent limitations established by Order No. 2001-96.

The *January 2004 Monthly Monitoring Report* submitted for your facility identified violations of effluent limitations for Turbidity, Total Nitrogen, and Total Phosphorus as shown below:

**Violation Summary for Mar Lado Pump Station Groundwater Extraction
January 2004 Monthly Monitoring Report**

Date of Violation	Violation	Permitted Limitation	Reported or Calculated Value	Percent Exceedance
1/7/04	Turbidity	(*)	Upstream: 1.2 NTU Downstream: 22 NTU	NA
1/7/04	Total Nitrogen Instantaneous Maximum	2.0 mg/l	2.9 mg/l	45 %
1/7/04	Total Nitrogen Average Monthly	1.0 mg/l	2.9 mg/l	95 %
1/7/04	Total Phosphorus Instantaneous Maximum	0.2 mg/l	0.29 mg/l	45 %
1/7/04	Total Phosphorus Average Monthly	0.1 mg/l	0.29 mg/l	95 %

(*) Shall not exceed the ambient turbidity of the surface water at any time.

Water Code section 13385(h)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each serious violation. A serious violation is a waste discharge that violates an effluent limitation contained in the applicable waste discharge requirements for a Group I pollutant, such as Total Nitrogen and Total Phosphorus, by 40 percent or more. Section 13385(i)(1) requires the Regional Board to assess a mandatory penalty of three thousand dollars (\$3,000) for each chronic violation whenever the person violates a waste discharge requirement four or more times in any period of six consecutive months. Therefore, under Water Code section 13385 the amount of the mandatory minimum penalty that must be assessed for the Total Nitrogen and Total Phosphorus exceedance is \$12,000. The Turbidity limitation violation is considered the first chronic violation and is not included in the Mandatory Minimum Penalty.

Be aware that if KB Home Coastal Inc. intends to waive its right to a hearing before the Regional Board, you or an authorized agent must sign and return the enclosed waiver form with a cashier's check for the amount of civil liability indicated in the Complaint by 5:00 p.m., Monday, May 24, 2004. Waiver of the hearing constitutes admission of the validity of the allegation of violations in

the Complaint and acceptance of the assessment of civil liability in the amount of \$12,000 as set forth in the Complaint.

If KB Home Coastal Inc. does not elect to waive its right to a public hearing, a hearing is tentatively scheduled to be held at the Regional Board meeting on June 9, 2004, at the Regional Board Meeting Room, 9174 Sky Park Court, Suite 100, San Diego, CA 92123. The meeting is scheduled to begin at 9:00 a.m. In order for the Regional Board to fully consider any argument on your behalf, you should submit twenty copies of all documents, including exhibits, you intend to provide to the Regional Board by 5:00 p.m., Wednesday, May 26, 2004 as indicated in the enclosed *Submittal of Written Information Procedures*. Copies of material submitted will be forwarded to the Regional Board. An agenda for the hearing will be mailed to you not less than ten days before the hearing date.

This is to inform you that monitoring reports for periods subsequent to January 2004, as required by Order No. 2001-96, are no longer required to be submitted to this Regional Board as long as extracted groundwater is not discharged to surface waters.

The heading portion of this letter includes a Regional Board code number noted after "In reply refer to:" In order to assist us in the processing of your correspondence please include this code number in the heading or subject line portion of all correspondence and reports to the Regional Board pertaining to this matter.

If you have questions regarding this letter please contact Ms. Sabine Knedlik at (858) 467-2725, or by e-mail at [kneds@rb9.swrcb.ca.gov](mailto:knedls@rb9.swrcb.ca.gov).

Respectfully,



JOHN H. ROBERTUS
Executive Officer

- Enclosures:
1. ACL Complaint No. R9-2004-0116
 2. Waiver of Hearing Form
 3. Submittal of Written Information Procedures
 4. Hearing Procedures
 5. Pure Effect Inc., January 2004 Monitoring Report, Page 4, Laboratory Constituents
- cc:
1. Mr. Michael E. Slaby, Sun-AG, Inc., 611 West Palm Avenue, Orange, CA 92868
 2. Mark Alpert, Regional Board

File: 14-1033.02
JRP:sk

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**CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN DIEGO REGION**

IN THE MATTER OF:

MS. DEBORAH VAN HUIS
KB HOME COASTAL INC.
12355 EL CAMINO REAL, SUITE 100
SAN DIEGO, CA 92130
WDID NO. 9 000001033

COMPLAINT NO. R9-2004-0116

FOR

ADMINISTRATIVE CIVIL LIABILITY

WITH

MANDATORY MINIMUM PENALTY

APRIL 23, 2004

**VIOLATION OF EFFLUENT LIMITATIONS IN
ORDER NO. 2001-96, NPDES NO. CAG919002,
GENERAL WASTE DISCHARGE
REQUIREMENTS FOR GROUNDWATER
EXTRACTION AND SIMILAR WASTE
DISCHARGES FROM CONSTRUCTION AND
REMEDATION PROJECTS TO SURFACE
WATERS WITHIN THE SAN DIEGO REGION,
EXCEPT FOR SAN DIEGO BAY**

KB HOME COASTAL INC. IS HEREBY GIVEN NOTICE THAT:

1. KB Home Coastal Inc. is alleged to have violated provisions of law for which the California Regional Water Quality Control Board, San Diego Region (Regional Board) may impose civil liability pursuant to the Porter-Cologne Water Quality Control Act, Water Code section 13385. The violations alleged herein include violations of effluent limitations in waste discharge requirements for discharges of pollutants from point sources to navigable waters for which the Regional Board must impose Mandatory Minimum Penalties.

ALLEGATIONS

2. KB Home Coastal Inc. discharged extracted groundwater from the Mar Lado Pump Station construction project to the San Luis Rey River. The discharge is subject to waste discharge requirements, Order No. 2001-96, NPDES No. CAG919002, *General Waste Discharge Requirements For Groundwater Extraction And Similar Waste Discharges From Construction And Remediation Projects To Surface Waters Within The San Diego Region, Except For San Diego Bay*. KB Home Coastal Inc. enrolled for regulation under these requirements on April 1, 2003 (WDID No. 9000001033).
3. In January 2004, KB Home Coastal Inc.'s discharge exceeded effluent limitations for Turbidity, Total Nitrogen and Total Phosphorus (see Table 1, attached).
4. Under subdivision (h) of Section 13385 of the Water Code, the Regional Board must impose Mandatory Minimum Penalties of \$12,000 for the alleged violations of effluent limitations, as determined by the following:

April 23, 2004

Serious Violations of Total Nitrogen and Total Phosphorus:

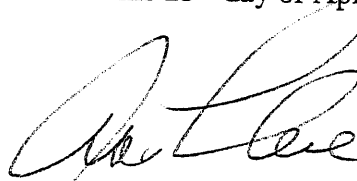
On January 7, 2004, the concentrations of Total Nitrogen and Total Phosphorus (both Group I pollutants) in KB Home Coastal Inc.'s discharge exceeded four of the applicable effluent limitations by 40% or more. These four violations are "serious" violations under subdivision (h)(2) of Section 13385. The Mandatory Minimum Penalty under subdivision (h)(1) of Section 13385 is \$3,000 for each violation (\$12,000).

PROPOSED CIVIL LIABILITY

5. Pursuant to Section 13385 (h) of the California Water Code, the Regional Board must impose Mandatory Minimum Penalties of \$12,000 on KB Home Coastal Inc. No additional civil liability for the violations alleged in this Complaint is recommended.

Dated this 23rd day of April 2004.

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JOHN H. ROBERTUS
Executive Officer

**Table 1. Violation Summary for KB Home Coastal Inc. Groundwater Extraction
January 2004 Monthly Monitoring Report**

<u>Date of Violation</u>	<u>Violation</u>	<u>Permitted Limitation</u>	<u>Reported or Calculated Value</u>	<u>Percent Exceedance</u>	<u>Serious/Chronic</u>	<u>Penalty</u>
1/7/04	Turbidity	(*)	Upstream: 1.2 NTU Downstream: 22 NTU	NA	Chronic	\$0
1/7/04	Total Nitrogen Instantaneous Maximum	2.0 mg/l	2.9 mg/l	45 %	Serious	\$3,000
1/7/04	Total Nitrogen Average Monthly	1.0 mg/l	2.9 mg/l	95 %	Serious	\$3,000
1/7/04	Total Phosphorus Instantaneous Maximum	0.2 mg/l	0.29 mg/l	45 %	Serious	\$3,000
1/7/04	Total Phosphorus Average Monthly	0.1 mg/l	0.29 mg/l	95 %	Serious	\$3,000
Total Penalty:						\$12,000

(*) Shall not exceed the ambient turbidity of the surface water at any time.

Laboratory Constituents

KB Homes, Mar Lado Pump Station, Oceanside, CA

For the operating month of January 2004

Flow discontinued effective January 7, 2004.

File no. IC:14-1033.01:komec

Constituent	Results	Discharge Limits	Method Detection Limits/Units
Flowrate	See attached chart		
Total Nitrogen	2.9 mg/L	2.0 mg/L	0.25 mg/L
Total Phosphorus	0.29 mg/L	0.2 mg/L	0.005 mg/L
Settleable Solids	ND	50 mg/L	0.1 mg/L
Total Suspended Solids	ND	N/A	2.6 mg/L
Hydrogen Sulfide	ND	10 ug/L	0.1 mg/L
Total petroleum hydrocarbons	0.058 mg/L	0.5 mg/L	.050 mg/L
MTBE	14 ug/L	N/A	0.18 ug/L
pH	7.30	7.0 - 8.5	N/A
Turbidity, 100' upstream	1.2 NTU	N/A	0.05 NTU
Turbidity 100' downstream	22 NTU	N/A	0.05 NTU